

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA

NO. 11CR 00022 JD

V.

JOSE REYES

MOTION TO CONTINUE

NOW COMES the defendant, Jose Reyes, by and through counsel, and hereby moves this Court to continue his January 9, 2013, Sentencing Hearing.

In support of this Motion, the accused states as follows:

1. The defendant is scheduled to appear in this Court on January 9, 2013, at 2:00 p.m. for his Sentencing Hearing.
2. That one of the key issues involved in the defendant's sentencing are the defendant's prior convictions. These prior convictions presently play a role in the potential determination of the defendant as a career offender. The relevant prior convictions took place in Roxbury District Court in Massachusetts (Suffolk County) on or about February 8, 1999, and in Suffolk County Superior Court in Massachusetts on or about November 4, 2004. Both are drug convictions.
3. Recently, it has come to light that a crime lab involved in testing drugs from Suffolk County has been shut down by the Massachusetts authorities based on the purported fraudulent activities of a lab analyst. This analyst worked at the lab from 2003 until recently.
4. Prior to the defendant's previously scheduled December 3, 2012, Sentencing Hearing, the undersigned counsel was contacted by Attorney Anthony Annino. Attorney Annino informed the undersigned counsel that he had been working on determining whether the defendant's November 4, 2004, drug conviction was one of the cases that the aforementioned lab analyst had worked on. Attorney Annino informed the undersigned counsel that he was of the belief that he should have the relevant documents pertaining to this November 4, 2004, in his possession within

- one to two weeks of the conversation between the undersigned counsel and Attorney Annino. Attorney Annino informed the undersigned counsel that once he had the relevant documents in his possession the question of whether the particular lab analyst being involved in the November 4, 2004, case would be easily answered.
5. As of the date of this motion, the undersigned counsel has not heard from Attorney Annino and Attorney Annino has not yet responded to any of the messages left with his office regarding this matter.
 6. Given the importance of the determination of the career offender issue to the defendant's sentencing, the defendant is requesting that he be given at least 30 days to obtain the required information from Attorney Annino. The undersigned counsel is asking for 30 days based on the following: the undersigned counsel is not aware of Attorney Annino's schedule; the undersigned counsel has a sentencing hearing in the United States District Court for Massachusetts in United States v. Monteiro on January 15, 2013; the undersigned counsel will be out of the country from January 18, through January 23, 2013; the undersigned counsel has a Supervised Release Hearing on January 24, 2013 in the United States District Court for Massachusetts in United States v. Miranda; the undersigned counsel is scheduled for jury duty in Rockingham County Superior Court on January 28, 2013 (as a result, if picked as a juror, the undersigned counsel may not be available during that week); and, the undersigned counsel is scheduled for trial in the United States District Court of New Hampshire in United States v. Padmore on February 5, 2013.
 7. That the defendant is aware of the within Motion.
 8. The Government objects to this motion.

WHEREFORE, the accused respectfully requests that this Court grant the within Motion and continue his Sentencing for 30 days.

Respectfully submitted,
Jose Reyes,
By his Attorney,

Date: January 8, 2013

/S/Paul J. Garrity

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CERTIFICATE OF SERVICE

I, Paul J. Garrity, herein certify that on this 8th day of January, 2013, a copy of the within was e filed to the United States Attorney's Office and all counsel of record and mailed, postage prepaid, to Jose Reyes.

/S/Paul J. Garrity

Paul J. Garrity